

REMARKS

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Examiner states "claim 22, line 1 recites '... a ratio of a size of the first portion to a size of the second portion is 1:1.' That phrase [is] unclear, since independent claim 1, recites 'a second portion of the light-emitting surface without the phosphor is surrounded by the first portion'. The second portion which surrounds the first portion cannot be of the same size as the portion which it surrounds." Applicant respectfully traverses the rejection. Fig. 1 shows one example of a device as claimed in claim 22. In Fig. 1, a phosphor layer 2 is provided on a first portion of the light-emitting surface. The phosphor layer is divided into 18 regions. A second portion 1 of the light-emitting surface is without the phosphor layer. The region of the light-emitting surface without the phosphor layer is also divided into 18 regions. The 18 regions of the phosphor layer and the 18 regions without phosphor are all about the same size. Each of the regions without phosphor "is substantially surrounded" by regions with phosphor. Accordingly, contrary to the Examiner's rejection, there is no contradiction between claims 1 and 22, and claim 22 is not indefinite. Applicant respectfully requests that the Examiner withdraw his rejection of claim 22.

Claims 1, 3-6, 8, 9, 11-13, 20, and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al., U.S. Patent 6,373,188 (hereinafter "Johnson"). Applicant respectfully traverses the rejection.

Claim 1 recites "a phosphor layer provided on a first portion of the light-emitting surface . . . wherein a second portion of the light-emitting surface is without the phosphor layer . . ." The Examiner states that Johnson teaches in Figs. 1 and 2 "a phosphor layer 60 which is provided on a first portion of light emitting surface wherein a second portion of the light-emitting surface (portion covered by 38, 50) without the phosphor is surrounded by the first portion." Applicant notes that the Examiner does not cite a reference number from

Johnson corresponding to claim 1's "light-emitting surface," because it is impossible to do so. Johnson's P-ohmic contact 38 is formed on a different surface than Johnson's layer 60. Applicant fails to see how these different surfaces could constitute a single "light-emitting surface" as recited in claim 1. In addition, Johnson's Fig. 1 clearly shows light escaping through the surface of transparent substrate 26, a surface opposite the surface on which structure 38 is formed. Applicant fails to see how the surface on which structure 38 is formed could be a "light-emitting surface" as recited in claim 1, as it does not emit light, and in fact cannot emit light, because the active, light emitting region 24 has been removed from below this surface. For these reasons, Johnson does not teach "a phosphor layer provided on a first portion of the light-emitting surface . . . wherein a second portion of the light-emitting surface is without the phosphor layer . . ." as recited in claim 1 and thus fails to anticipate claim 1.

Claims 3-6, 8, 11-13, and 20 depend from claim 1 and are therefore allowable over Johnson for at least the same reasons as claim 1. In addition, with regard to claim 12, claim 12 recites "the second portion is disposed in a path of light emitted by the diode." As described above, Johnson's structure 38 is disposed on a portion of the device from which the active region has been removed, accordingly, structure 38 is not "disposed in a path of light emitted by the diode" as required by claim 12. Claim 12 is thus allowable over Johnson for this additional reason.

Claim 9 recites "providing a phosphor layer on the light-emitting surface . . . wherein the phosphor layer is removed from, or not provided on, a portion of the light-emitting surface substantially surrounded by the phosphor layer." As described above in the discussion of the rejection of claim 1, in Johnson's device, the phosphor layer and the portion of the light-emitting surface wherein the phosphor layer is removed from or not provided on are not on the same surface of the device, and thus are not on a single light-emitting surface. In addition, in Johnson's device, at least a portion of what the Examiner considers the "portion of the

light-emitting surface" "wherein the phosphor layer is removed from, or not provided on," the surface cited cannot be a "light-emitting surface" as required by claim 9, because the active or light emitting region is removed from beneath that surface. For these reasons Johnson does not teach "providing a phosphor layer on the light-emitting surface . . . wherein the phosphor layer is removed from, or not provided on, a portion of the light-emitting surface substantially surrounded by the phosphor layer" as recited in claim 9 and thus fails to anticipate claim 9.

Claim 23 recites "a phosphor layer provided on a first portion of the light-emitting surface" and "a second portion of the light-emitting surface is without the phosphor layer." As described above in the discussion of the rejection of claim 1, in Johnson's device, the first portion and second portion are not on the same surface of the device, and thus are not on a single light-emitting surface. In addition, in Johnson's device, in at least a portion of what the Examiner considers the second portion, the surface cited cannot be a "light-emitting surface" as required by claim 23, because the active or light emitting region is removed from beneath that surface. For these reasons Johnson does not teach "a phosphor layer provided on a first portion of the light-emitting surface" and "a second portion of the light-emitting surface is without the phosphor layer" as recited in claim 23 and thus fails to anticipate claim 23.

Claims 24-26 depend from claim 23 and are therefore allowable for at least the same reasons.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Duggal et al., U.S. Patent 6,294,800. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Nakamura et al. Claim 2 depends from claim 1 and claim 10 depends from claim 9. Duggal et al. and Nakamura et al. are cited as teaching claim elements that are unrelated to the deficiencies of Johnson with respect to claims 1 and 9.

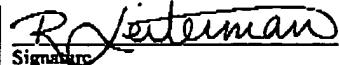
Claims 2 and 10 are thus allowable over the combinations cited for at least the same reasons that claims 1 and 9 are allowable over Johnson.

Applicants thank the Examiner for allowing claims 14, 16, 17, and 21.

Applicants respectfully request allowance of all pending claims. Should the Examiner have any questions, the Examiner is invited to call the undersigned at (408) 382-0480.

Certification of Facsimile Transmission

I hereby certify that this paper is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.


Signature

12/7/04
Date

Respectfully submitted,



Rachel V. Leiterman
Attorney for Applicants
Reg. No. 46,868

PATENT LAW
GROUP LLP
2225 N. FIRST ST.
SUITE 222
SAN JOSE, CA 95134
(408) 382-0480
FAX (408) 382-0481